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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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Date of Decision : November 19, 2024

AMIT SINGH CHAUHAN

-PETITIONER

V/S

AJAY KUMAR

-RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Sumit Sangwan, Advocate
for the petitioner.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant petition, the petitioner assails the order dated 17.08.2024 (Annexure P-1), whereby, although the learned Additional Sessions Judge concerned has suspended his sentence, however, the said concession has been extended subject to his depositing 20% of the total amount of compensation amount on or before 23.10.2024. In addition, the petitioner also assails the order dated 23.10.2024 (Annexure P-2), wherethrough, he has been granted extension of one month, i.e. upto 21.11.2024, to make payment of 20% of the compensation amount.

2. As a matter of fact, the learned trial Court concerned has, through drawing the verdict of conviction dated 10.07.2024 and the consequent thereto order of sentence dated 12.07.2024 (Annexure P-3), convicted the petitioner for commission of offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as the 'N.I. Act'), and, sentenced him to undergo simple imprisonment for three months and to pay compensation of ₹ 5,00,000/- against cheque

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bearing No.032763 dated 15.12.2017 to the complainant.

3. The verdict of conviction and order of sentence (supra) caused pain to the petitioner and triggered him to institute thereagainst a statutory appeal before the learned appellate court concerned, which is pending consideration. However, the learned appellate court concerned has, through the impugned order dated 17.08.2024 (Annexure P-1), although suspended petitioner's sentence on his furnishing bail bonds in the sum of Rs.50,000/- with one surety in the like amount, however, the said concession has been extended subject to his also depositing 20% of the total compensation amount. Feeling aggrieved by this order, the petitioner has now approached this Court, through the instant petition.

4. The learned counsel for the petitioner, in his assailing the impugned orders, has submitted that the case of the petitioner falls in "exceptional category", inasmuch as, he does not have any means to make payment of even 20% of the awarded compensation amount.

5. To buttress his submission, the learned counsel for the petitioner has placed reliance upon the judgment rendered by the Hon'ble Supreme Court in **"Jamboo Bhandari V/s M.P. State Industrial Development Corporation Ltd. & Ors."**, 2023(3) Law Herald (SC) 2433.

6. On a specific query being posed by this Court, vis-a-vis, *"whether the petitioner has, or, has not, made an application before the learned appellate court concerned till date, thereby bringing the aforesaid facts on record"*, the learned counsel for the petitioner returned an answer in negative.

7. In such circumstances, this Court, at this stage, refrains from



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making any interference in the matter and deems it appropriate to relegate the petitioner to the learned appellate court concerned, by making an appropriate motion. In case, the petitioner falls within “exceptional category”, as per the law laid down by the Hon’ble Supreme Court in this regard, thereupon the learned appellate court concerned shall make a decision on the application, if any preferred by the petitioner, as per law.

8. Disposed of accordingly.

November 19, 2024
devinder

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No